

ISSUE DATE: August 6, 1996

DOCKET NO. P-421/C-95-198

ORDER FINDING STATUTORY VIOLATION AND REQUIRING COMPANY TO SUBMIT
PLAN

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Joel Jacobs
Marshall Johnson
Dee Knaak
Don Storm

Chair
Commissioner
Commissioner
Commissioner

In the Matter of a Complaint against US
WEST Communications, Inc. for Failing to
Offer Services Included in Its Price List

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PROCEDURAL HISTORY

On June 30, 1993, US WEST Communications, Inc. (US WEST or the Company) filed a proposal to discontinue billing and collection service for its 976 Information Delivery Service (976 IDS). The matter was assigned to Docket No. P-421/EM-93-590.

On March 30, 1995, the Department of Public Service (the Department) filed a complaint alleging that US WEST had failed to offer services included in its price list, specifically 976 IDS and 960 Network Access Service (NAS).

On April 18, 1995, US WEST filed an answer stating that it had never knowingly or intentionally failed to offer 976 IDS or 960 NAS in accordance with its price list.

On April 26, 1995, the Department filed reply comments.

The matter came before the Commission for consideration on July 16, 1996.

FINDINGS AND CONCLUSIONS

I. THE 976 IDS AND 960 NAS SERVICES

US WEST's 976 IDS allows a telephone subscriber to obtain information by dialing a 976-xxxx number. The subscriber's 976 call is carried by US WEST through the regular telephone network to an information provider (IP), who is US WEST's customer for the 976 service. The IP sets charges for the information service and provides a short recorded message regarding charges at the beginning of the call. The subscriber who proceeds with the call can be linked to "chat" lines, time and temperature recordings, sports results, or other information.

US WEST records the length of each call made, applies the rate established by the IP, and bills the subscriber as part of the monthly US WEST telephone bill. US WEST deducts the charges for carrying or transporting the call and remits the remainder to the IP. This portion of US

WEST's service to the IP is known as billing and collecting.

960 NAS allows end-users to call various information services furnished by an IP. US WEST does not provide any billing and collecting for IPs under 960 NAS, but does create the billing information which enables an IP to do its own billing and collecting or to hire another company to bill and collect.

II. POSITIONS OF THE PARTIES

A. The Department Complaint

The Department stated that it had been contacted by an IP who subscribed to US WEST's 976 IDS. The IP reported that it had been informed by US WEST that the Company does not currently offer 960 NAS.

Because US WEST's price lists state that the Company offers both 976 IDS and 960 NAS, the Department investigated the IP's complaint. A Department representative contacted US WEST several times and was informed by service representatives that the Company does not offer 960 NAS and/or 976 IDS. The Department representative included an affidavit outlining the history of his contact with US WEST in the Department complaint.

The Department alleged that US WEST had failed to offer the 976 IDS and 960 NAS included in its price list, in violation of Minn. Stat. § § 237.06 and 237.07, subd. 1.¹ The Department recommended that the Commission do the following:

1. Order US WEST to immediately begin providing 960 NAS in compliance with its price list;
2. Order US WEST to submit a filing to remove 960 NAS if the Company no longer wishes to provide the service;
3. Order US WEST to submit a plan detailing how the Company will ensure that its service representatives are aware of and knowledgeable about the 976 IDS and 960 NAS offerings. The plan should also explain how the Company will ensure that its service representatives will address requests for 976 IDS or 960 NAS in a timely and accurate manner;
4. Determine whether US WEST knowingly and intentionally failed to provide 976 IDS and/or 960 NAS in accordance with its price list. If the Commission finds in the affirmative, determine whether to refer this matter to the Office of the Attorney General

¹ Minn. Stat. § 237.06 requires telephone companies to furnish reasonably adequate service and facilities for the accommodation of the public. The telephone company's rates, tolls, and charges shall be fair and reasonable for the use of the public. Minn. Stat. § 237.07, subd. 1 requires telephone companies to file with the Department a specific rate, toll, or charge for every noncompetitive service and a price list for every emergingly competitive service.

for enforcement proceedings pursuant to Minn. Stat. § 237.461, subd. 2.

In reply comments, the Department stated that US WEST had taken appropriate steps to ensure that its service representatives were aware of and knowledgeable about 976 IDS and 960 NAS. The Department remained concerned that the Company had previously violated Minn. Stat. §§ 237.06 and 237.07, subd. 1 by failing to offer the services. The Department continued to recommend that the Commission find that the Company had violated the statutes and refer the matter for enforcement proceedings if the violations were knowing and intentional.

B. US WEST's Answer

US WEST noted that it had filed a proposal in 1993 to discontinue the billing and collecting associated with 976 IDS. Docket No. P-421/EM-93-590. At the time it filed, the Company planned to supersede NAS 960 with the remaining elements of 976 IDS; the resulting offering would be called 976 Network Access Service. US WEST's proposal to discontinue 976 IDS was still pending at the time of the July 16, 1996 hearing.²

US WEST stated that it had never knowingly or intentionally failed to offer 976 IDS or 960 NAS in accordance with its price lists. Any mistakes on the part of service representatives were due to the infrequent use of these offerings and confusion about discontinuance of the services in other states of US WEST's service territory.

US WEST described the measures it had taken to ensure that its service representatives had full information about the offerings. The Company had met with its service representatives and had begun issuing quarterly bulletins reminding them of the elements of the offerings. The Company would also issue an information bulletin upon any change to the services.

US WEST stated that there is no evidence that it had ever denied any IP either 960 NAS or 976 IDS.

US WEST agreed with one Department recommendation: the Company would submit a filing to remove 960 NAS from the price list. US WEST explained that it has never had a customer for 960 NAS. Now that 976 IDS is being eliminated, there is no need for 960 NAS.

² Later in the July 16, 1996 hearing, the Commission approved US WEST's proposal to eliminate its 976 IDS. The Order allowing US WEST to discontinue the service was issued contemporaneously with this Order. Docket No. P-421/EM-93-590, ORDER ALLOWING COMPANY TO DISCONTINUE SERVICE AND REQUIRING FILINGS.

III. COMMISSION ACTION

From the evidence presented by the Department, the Commission finds that US WEST violated Minn. Stat. §§ 237.06 and 237.07, subd. 1 by failing to offer the 976 IDS and 960 NAS included in its price list. The Commission finds that US WEST was not offering the services during the period that the Department representative was contacting the Company, because an inquiring IP could not have obtained either service from the Company's service representatives during this time.

The Commission considers US WEST's failure to provide the services a breach of its statutory duty. Minn. Stat. §§ 237.06 and 237.07, subd. 1 are meant to ensure that each telephone company will provide adequate service, and that the public can make a knowing selection of the company services which constitute that service. If the public cannot obtain the accurate information necessary to make informed service choices, the Company has failed in its duty to uphold the statutory service standards.

US WEST has, however, acknowledged that its service processing was faulty and has taken appropriate steps to remedy the situation. The Company has held special meetings for its service representatives regarding 976 IDS and 960 NAS. The Company is issuing quarterly bulletins to all service representatives advising them of the status of the 976 IDS and 960 NAS offerings. The Company will also inform its representatives immediately of any Commission-ordered change to the services.

US WEST has also obtained the Commission's permission to discontinue its 976 IDS in Docket No. P-421/EM-93-590. The Company has stated that it will be filing a petition seeking Commission approval to discontinue its 960 NAS.

Because the Company has taken appropriate steps to remedy any statutory violation, and the Company will soon have discontinued both its 976 IDS and 960 NAS offerings, the Commission does not see a need to refer this matter for enforcement proceedings.

The Commission will, however, require US WEST to submit a written plan to ensure that its service representatives understand the status of its 976 IDS and 960 NAS offerings. Although the Company is in the process of withdrawing from these offerings, it is still within the grace period for providing 976 IDS and it has not yet submitted a petition for authority to discontinue 960 NAS. A written filing will ensure that the Company has fully considered the changing status of these offerings and has kept its service representatives apprised of their status. The requirement of a written submission is also warranted, given the Company's clear violation of a statutory requirement.

ORDER

1. Within 30 days of the date of this Order, US WEST shall submit a plan detailing how the Company will ensure that its service representatives are aware of and knowledgeable of the 976 IDS and 960 NAS offerings. The plan shall also explain how the Company will ensure that its service representatives will address requests for 976 IDS and 960 NAS in a timely and accurate manner.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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